

ENTERED

September 16, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DANIEL NEAL MARTIN,

Plaintiff,

v.

LARRY BUSBY, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:22-CV-00181

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Jason Libby's Memorandum and Recommendation (M&R). (D.E. 10). The M&R recommends that the Court dismiss Plaintiff's complaint with prejudice as frivolous and/or for failure to state a claim on which relief may be granted. (D.E. 1; D.E. 10, p. 1). The M&R also recommends that the dismissal be counted as a "strike" for frivolous filing pursuant to 28 U.S.C. § 1915(g). (D.E. 10, p. 1).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. Civ. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Badaiki v. Schlumberger Holdings Corp.*, 512 F. Supp. 3d 741, 743–44 (S.D. Tex. 2021) (Eskridge, J.).

Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 10). Accordingly, the Court orders that Plaintiff's claims be **DISMISSED with prejudice**. (D.E. 1). The Court further orders

that this dismissal be counted as a “strike” for frivolous filing as described in 28 U.S.C. § 1915(g) and that the Clerk of Court be **INSTRUCTED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov. A final judgment will be entered separately.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
September 16, 2022